WESTERN AUSTRALIAN FUTURE FUND BILL 2012

Committee

Resumed from 14 November. The Deputy Chair of Committees (Hon Col Holt) in the chair; Hon Simon O'Brien (Minister for Finance) in charge of the bill.

Clause 9: Application of Future Fund —

Progress was reported after the clause had been partly considered.

Hon LINDA SAVAGE: I speak in regard to clause 9(4). I understood the minister to say that the processes by which agreement between the ministers would be reached as to what the future fund would be spent on, using the minister's words from the uncorrected *Hansard*, "would obviously be in writing". My next question is: will the agreement reached outlining where the funds are to be spent between the metropolitan areas and the regions be a public document that is tabled in Parliament so that future generations, and of course members of Parliament, will see what the future fund is being spent on?

Hon SIMON O'BRIEN: Obviously, it will be subject to the normal parliamentary processes, which would include presentation in the budget papers in addition to the other normal announcements that governments make about these matters when they are determined. It will also be subject to the scrutiny of any parliamentary processes, which, again, the member would be familiar with. The information would be made known through a number of mechanisms.

Hon LINDA SAVAGE: I have recently made the point about how difficult it sometimes is to ascertain where money is spent. I even said that we need to move to some sort of truth in budgeting so that it is possible to make a fair assessment about where money is being spent. I make the point, in view of the future fund—which is unprecedented legislation set up for the benefit of future generations—that at the very least it should be expected that the money available should be well understood by the community and certainly by members of Parliament. I will put that on the record.

Hon KEN TRAVERS: I want to finish off on the issues around clause 9(4) because it needs to be clearly understood in the chamber. The minister alluded to it last night, but it is my understanding that if agreement cannot be reached between the Treasurer and the Minister for Regional Development, the argument that it will just not be spent is not really an accurate reflection. The matter will go to cabinet; it will end up being a decision of cabinet. If the Minister for Regional Development does not like what is happening, he or she will have only one option—that is, to resign from cabinet. That is the reality of this clause. Anyone who thinks otherwise does not understand the interaction of this clause and the Westminster system. I do not know whether the minister wishes to make any comment about that or whether he disagrees with that.

Hon Simon O'Brien: By way of brief interjection, the imperative carried in subclause (4) is that those ministers who are required to reach agreement will reach agreement; and they will be required to by cabinet. I think it would be extraordinary if it went further. But it could, hypothetically, even go down the track that the member mentioned.

Hon KEN TRAVERS: I have no doubt that a future government will want to spend the money if it can. The only time when there is no agreement between ministers is when there is no consequence to them not getting agreement. I used the example in my second reading contribution of the Minister for Transport not being able to get the concurrence of the Treasurer regarding statements of corporate intent for port authorities.

Hon Simon O'Brien: I understand that the Treasurer and Minister for Transport are completely in agreement now!

Hon KEN TRAVERS: I am glad to hear that. I assume, then, the statements of corporate intent will be tabled shortly.

Hon Simon O'Brien: That would be a matter for the Minister for Transport.

Hon KEN TRAVERS: Then he has to agree with himself, of course; not with the Treasurer.

Hon Simon O'Brien: We have high hopes that that can be achieved.

Hon KEN TRAVERS: We can only wait and hope. I am glad to hear he is sorting out the disagreement with himself! The reason I make that point is that earlier in the debate members of the National Party suggested that it gave them some comfort in this bill; and, if there is no agreement, it will come back to a simple cabinet decision. Therefore, I move —

Page 5, line 21 — To delete "2032" and insert —

2062

If we are serious about setting up a future fund, we should be setting it up for the future. In real terms, 20 years is but a drop in the ocean, and we can fairly reliably predict what will happen over the next 20 years. I think it is reasonable to assume, on the information we have available to us about the current export of iron ore reserves, that Western Australia will continue to get a significant royalties income stream for at least the next 20 years. If we want to genuinely ensure that the money will be transferred on an intergenerational basis, surely we should show a bit more vision and preserve the money in this fund for 50 years. As many members noted earlier, the reality is that even if we put more than $1 billion into the fund over the first four years, the next 16 years will produce $4.7 billion, including interest earned on that $1 billion. That will then produce income of around $232 million, which probably will not even cover the interest bill of the $8.5 billion that will be left for future generations at the end of the current forward estimates period. It is the view of the Labor Party that if we are serious about doing this, we should preserve the fund for not just 20 years, but for 50 years. That will ensure that we really are getting an intergenerational transfer of wealth.

Hon SIMON O'BRIEN: The proposition advanced is not supported by the government, although an interesting question has been raised by Hon Ken Travers through his remarks. The government considers that the 20-year accumulation period in the bill strikes an appropriate balance between allowing sufficient time for the future fund balance to build up so that we have some substantial income—$232 million per annum, for example—and being able to access the funds. At what point do we want the Western Australians of the future to be able to access the benefits that are held in the fund? That is the question. The immediate question for us is: will it be 2032 or 2062? The phrases that are often used are "our children" and "our grandchildren"; 20 years is a good time to commence the flow of those benefits, whereas 50 years is probably a bit too far into the unknown. The concern about the projected balance of the fund in 20 years' time has not been sufficiently built up to make this a worthwhile proposition. It can also be countered by the consideration—which I think came up earlier in the debate—that, even though there is a drawdown on the income produced from the fund after 20 years, there is still a regular input of one per cent of our future royalty revenue. Who knows? That may be increased or, indeed, it may be supplemented by other payments from time to time, as provided for in other parts of this bill.

I do not at all resent the honourable member putting forward this amendment for discussion, and I hope I have answered his proposition in a way that finds favour with members; 20 years is the time frame that we have been debating, both here and in other places, and 20 years is the expectation that has been engendered in the community. For that reason, 20 years is the time period that the government insists is, in its view, preferable. The extension to 50 years is an interesting proposition, but then again, I hope we will not get down to considerations of 25 years or 27 and three-quarter years, or anything like that! There is no suggestion that we do go down that path.

Hon Ken Travers: Twenty-seven and eight months!

Hon SIMON O'BRIEN: Let the record show that the honourable member interjecting has a grin on his face and is doing so with a twinkle in his eye! As I have already indicated, I do not think it is a good idea to legislate on the run, and I certainly will not be doing that sort of horse trading at the committee table. So, thanks, but we will oppose this amendment.

Hon LYNN MacLAREN: The Greens (WA) oppose the amendment. We are very serious about establishing this future fund and the time frame of 2032 is realistic and acceptable to us.

Amendment put and a division taken, the Deputy Chair (Hon Col Holt) casting his vote with the noes, with the following result —

Ayes (8)

Hon Kate Doust	Hon Adele Farina	Hon Linda Savage	Hon Ken Travers
Hon Sue Ellery	Hon Ljiljanna Ravlich	Hon Sally Talbot	Hon Ed Dermer *(Teller)*

Noes (21)

Hon Liz Behjat	Hon Phil Edman	Hon Lynn MacLaren	Hon Giz Watson
Hon Robin Chapple	Hon Philip Gardiner	Hon Michael Mischin	Hon Alison Xamon
Hon Jim Chown	Hon Nick Goiran	Hon Norman Moore	Hon Ken Baston *(Teller)*
Hon Peter Collier	Hon Nigel Hallett	Hon Helen Morton	
Hon Mia Davies	Hon Alyssa Hayden	Hon Simon O'Brien	
Hon Wendy Duncan	Hon Col Holt	Hon Max Trenorden	

Pairs

Hon Jon Ford	Hon Donna Faragher
Hon Matt Benson-Lidholm	Hon Brian Ellis
Hon Helen Bullock	Hon Robyn McSweeney

Amendment thus negatived.

Hon KEN TRAVERS: I have a couple of quick questions about clause 9(3), which sets out the purposes for which funds from the future fund can be applied. I refer to the definition of "providing public works and other public infrastructure". Does the minister envisage that the interest cost on public works will be included under that definition? Could community service obligations to the Water Corp, Western Power and the like be included under that definition if they are CSOs for infrastructure? Finally, could funding from the future fund be applied for a CSO to LandCorp to meet its hurdle rate of return on infrastructure?

Hon SIMON O'BRIEN: The answers to those questions are no, no and no.

Hon KEN TRAVERS: Perhaps the minister could explain a bit more. That income can clearly be applied for the purpose of providing public works and other public infrastructure. If LandCorp is not going to provide it unless it gets a CSO and it then gets a CSO to provide it, why could it not be used for that purpose? I use the example of the Australian Marine Complex where a subsidy is paid in that regard.

Hon SIMON O'BRIEN: That is an interesting question. CSO payments are, by nature, recurrent expenses whereas, as we have already established during consideration of this bill, this is for capital expenditure and infrastructure.

Clause put and passed.

Clause 10: Manner and form of amendment or repeal during accumulation period —

Hon LINDA SAVAGE: Last Thursday, 8 November, when I made my speech on the second reading, I asked a number of questions about clause 10. I notice in the minister's reply that he did not answer them. I think he said that he would be answering them during the committee stage. Some of the issues have been raised in the Legislative Assembly. Whilst I note them, I do not expect that I will get a different answer. First, I asked whether the government would table the advice that it received so that the legal issues that this clause give rise to could be better understood based on the advice that it has received. I said that as the client, the government is in a position to waive privilege and table the advice. I understand that that is not something that it will do.

One of the other issues I raised is based on the argument of the government about clause 10. We could reach the conclusion that we could make any law one about Parliament's powers by including a section saying that it needed a special procedure to amend it. Given that inherent in parliamentary sovereignty is the concept that a current Parliament cannot bind a future Parliament, meaning that Parliaments are always able to make laws and also unmake laws—as we discussed, this comes from Dicey's original words on parliamentary sovereignty—it is a fundamental principle of our democracy. We should be concerned that something as fundamental as that could, in effect, based on my reading of clause 10 and the government's explanation so far, mean that we could entrench any number of pieces of legislation just by merely putting in a clause like that. I have raised that, and I have not seen any response to it.

The third issue—again, this relates to something that I think the minister has not responded to—is extremely important. It seems to me that the Western Australian Future Fund Bill is based on the assumption that the Royalties for Regions Act 2009 and some parts of the Financial Management Act 2006 will continue in their present form for at least 20 years. In saying that, I take the minister to clause 9, which we recently considered. Subclauses (5) and (6) refer directly to those two acts. Is it the assumption that these acts will stay in their present form? If that is true, does that mean that amendments to the Royalties for Regions Act, for example, could fall foul of this entrenching provision? If not, could amendments to the Royalties for Regions Act be used to avoid the intended effect of clause 10?

Hon SIMON O'BRIEN: A number of questions have been raised. The member also notes that this has been the subject of a debate elsewhere, but what goes on here is what we are concerned about.

Hon Ken Travers: You wouldn't want to rely on the debates in another place.

Hon SIMON O'BRIEN: Certainly not.

Hon Linda Savage: Not these specific questions; they were not raised in the Assembly.

Hon SIMON O'BRIEN: I do not care if they were not.

Hon Ken Travers: Move on minister; we are trying to get this bill through.

Hon SIMON O'BRIEN: I know members are, and I appreciate that. In no particular order, I was asked about the future of the Royalties for Regions Act and the Financial Management Act and whether we would expect them to endure. Firstly, this government—I can speak for this government, if not the future one—does not have any plans to do away with those acts. If those acts were repealed, whether they were replaced by some next evolutionary step or just repealed outright, obviously such an amending or repeal bill in the future would also have to contemplate a range of necessary consequential amendments, including amendments to deal with the

matter before us now. That is a matter for a future government and Parliament. It is certainly not on our agenda now. Very frequently, as we all know, acts reference provisions in other acts, and consequential amendments are required in large number when even a simple amendment is made. Of course, what the member contemplates is much more substantial. But, clearly, if an amendment were made to either of those acts that impacted on the provisions we are now considering, consequential arrangements would have to be attended to. Whether the Parliament of the day does that or overlooks it is a matter for it. But good practice would indicate that that is a very substantial loose end that would have to be tied. Again, it is recognised that if a manner and form provision such as the one we are now debating and a proposed amendment or repeal provision were contemplated at some stage in the future, it would have to have regard for the nature of the majority required in both houses to pass an amendment that contained a requirement such as the one contemplated in clause 10 of this bill. That is how those matters would be dealt with and that is eminently doable.

In relation to the State Solicitor's advice, government frequently receives State Solicitor's and other legal advice. As a matter of course, such advice is not made available or tabled. That is an enduring practice and standard of successive governments.

Hon Ken Travers: Advices have been tabled on relevant matters like this.

Hon SIMON O'BRIEN: It could happen, but it is not the normal practice.

Hon Ken Travers: Often with legislation it is the normal practice, to justify the position of governments on bills. It often is.

Hon SIMON O'BRIEN: The fact remains, it is an established standard that when a government declines to table legal advice, that is respected by the house and not insisted upon. That has been the approach of governments of both persuasions for a very long time indeed. I do not propose to change that now and I would not expect any member here to propose that I do so. However, if a government is to rely on the State Solicitor's advice in pursuing its argument, of course it will make reference to it. But it will not table the advice in so doing. The member has already alluded to some of that advice being made known and, indeed, I may well quote from some of that advice myself in the course of this debate on this clause.

The other substantive matter raised by the honourable member was about our contemplating that if a government sponsoring a bill through the Parliament wanted to entrench a provision such as this, what would stop it from entrenching any provision it wanted to entrench to make its laws a little more durable. That has not been the case. I do not believe any government has pursued such an attitude and I do not think it is very likely that a government would start to do that. But in this case, for fairly obvious reasons, we are trying to safeguard a future fund of a very substantial sum of money. We believe the entrenchment provision contemplated in clause 10 is appropriate and is a necessary safeguard. It does not stop a future Parliament finding its absolute majority. We cannot bind anything beyond our own term. Nonetheless, it is a provision that shows the clear intent of what is required. We are not proposing to make this a general feature of our legislation. I remind members that the intent of the future fund is that it not be tampered with over time, and the legislative purpose can be affected only if future Parliaments are prevented from repealing or amending the act to permit the fund to be used other than as is intended. As I just said, we cannot stop a future Parliament from doing that, but in the context I have mentioned, we can entrench the act. In so doing, I think that would be considered a law that respects the power or procedures of state Parliament. According to my notes, the advice provided by the Solicitor General states in part —

> … in my opinion, an attempt in the future to repeal or amend sections 6, 7, 8, 9 or 10 itself of the Western Australian Future Fund Act would be a law "respecting the powers and procedures … of the State Parliament", within the meaning of s.6 of the Australia Act and thereby be required, by reason of s.6 of the Australia Act, to comply with the manner and form prescription of s.10 of the Western Australian Future Fund Act.

I think we are all aware that whenever this sort of manner and form provision is raised, there is debate about how effective it is and about our entitlement to install it into one of our statutes. We are all familiar with those arguments. It is our view that the entrenchment provision embodied in clause 10 is necessary, lawful and reasonable. That is why we continue to support this clause as it is.

Hon LINDA SAVAGE: I appreciate that this is a complicated area of law and I am certainly not an expert on it, but it raises some very specific questions—questions that I have just asked and that I first asked a week ago. There has been ample opportunity to get a response to the specific questions I asked. I make the point again that the questions were not asked in the Legislative Assembly. Having made that point, I had hoped that with a week's notice the minister would have sought answers to the questions. I will ask them again to give the minister another chance to respond specifically and so there is no confusion. It is important as legislators that we do our best to ensure that the laws we pass are sound and that they do not have unintended consequences that future

Parliaments would have to resolve. I put the questions again. The future fund seems to be based on the assumption that the Royalties for Regions Act and some parts of the Financial Management Act will continue in their present form for at least 20 years. If that is true, does that mean that amendments to those acts could fall foul of this entrenching provision—that is, clause 10? If not, could amendments be used to avoid the intended effect of clause 10? I understand the role of Parliament. I understand that pieces of legislation are amended and repealed over the years. My question is not about a piece of legislation being amended or repealed and what subsequent legislation might be brought in to amend other pieces of legislation. The questions I have asked are very specific. For the benefit of trying to move this forward, I ask: since asking those questions more than a week ago, has the minister sought an answer to those specific questions; and, if so, can he provide an answer to those specific questions?

Hon SIMON O'BRIEN: I did note the member's raising of issues. I contemplated that they would be asked or canvassed in the committee stage of the bill under this very clause—and here we are. I thought I had just responded in detail to those questions. Perhaps I can put it in a way that might be more satisfactory to the member. Yes, the government has contemplated that those acts will endure. If those acts are amended in such a way that they touch on this bill, particularly clauses 6, 7, 8, 9 and 10, to that extent they would have to comply with the manner and form provisions that we are now debating. That provides a measure of entrenchment. However, having discussed this at some length a few minutes ago, I do not think there is much more I can say to spell out that position. Having given that response, the second part of the question falls away.

Hon LINDA SAVAGE: I do not feel that I have received an answer to those questions. As I said, they are quite specific questions, which is why they were asked a week ago. I felt it would have been necessary for the minister to seek quite a specific response. Having said that —

Hon Simon O'Brien: You didn't ask them very specifically and I've just given you a very patient and detailed response.

Hon LINDA SAVAGE: That response did not adequately answer the questions. I make the point that it is worth the government having a closer look at these issues in the interests of future governments and because of future processes that may relate to the two pieces of legislation to which I referred earlier and the bill that we are debating.

The CHAIR: Members, we are dealing with clause 10. I give the call to Hon Ken Travers, who will move his amendment.

Hon Simon O'Brien: Presumably that amendment falls away?

Hon KEN TRAVERS: No, it does not actually, minister. I concur with Hon Linda Savage about the detailed questions she asked. I listened to the answers, but we were given generalities, not specifics. When a government seeks to put in a manner and form provision, it needs to be able to answer specific questions about the legal advice it received, how it expects that provision to operate and how it will operate under the Western Australian Constitution. I do not think we received that. With all due respect, the minister has shown poor performance. He is normally very good in this chamber. On this occasion he is showing all the signs of the minister he is representing and that minister's commitment to providing detail to the public and Parliament of Western Australia. That may be because he is in the unfortunate position of having to comply with instructions from the minister who will ultimately be responsible for this legislation. If that is the case, I have some sympathy for him. If it is not the case, it is unusual. The fact that the minister did not realise that the amendment standing in my name to clause 10 can operate separately from the amendment I moved to clause 9 highlights the problems with the passage of this bill in the current form.

Manner and form provisions are quite unusual. The last time we dealt with them with any significance was when we were dealing with the electoral reform bills a few years ago. One of the cases quoted is the Marquet case that arose from the electoral reform bills. Out of that situation arose the issues of when and how manner and form provisions apply. It is interesting because there is strong argument about whether the manner and form provisions that were originally included in the electoral reform act would have applied if not for the passage of the Australia Act 1986, which entrenched them. That was the entrenching provision. Prior to that there had been long argument about whether the manner and form provisions in the electoral reform act would have applied. I expected a better response given that a clause such as this, an unusual clause, has been inserted in the bill. I am sure the Attorney General is off on urgent parliamentary business, but as a member who sits in this chamber, he could have been brought into the debate to provide assistance and to give a clearer explanation as to how the government expects the manner and form provisions to be upheld in light of the questions asked by Hon Linda Savage. I do not know whether the Attorney General will complete his urgent parliamentary business later today. Perhaps one option would be to defer the bill until he is available. He might be able to provide advice that the minister is not able to provide because of instructions he received from the instructing minister, for want of a better term. Having made those comments, I move —

Page 6, line 21 —

To delete "2032" and insert —

2062

The earlier amendment sought to amend "2032" to "2062", which relates to how moneys can be applied. This amendment seeks to extend the period in which one cannot amend the manner and form of this legislation. Why are those two things different? One is about how it can be applied; the second is for how long the entrenching provisions last. I think that long after we leave this chamber there will continue to be debates about whether or not the entrenching provisions intended in clause 10 will actually apply. I suspect that in light of the explanations that have been given so far, the reality is that we will see that matter only ever being tested if a government seeks to do it and it ends up in the Supreme Court, as occurred with an electoral amendment bill a number of years ago. Having said that, with the way in which the fund can be entrenched under clause 9, "Application of Future Fund", a government could still start to spend the money from 2032.

I say again that if the government is happy to agree that the money can be spent after 20 years—the Labor Party has a view it should be 50 years—why not entrench for a bit longer, and at least 50 years, other provisions of this bill if that is the real intention of the government? What does that mean, in the assurances given earlier by the minister, that even after 20 years one per cent of royalties will go into the fund? The reality on my reading of the bill is that a future government after 20 years will be able to remove that provision by a simple majority of this house. Therefore, the assurances we were getting earlier from the minister will lapse after 20 years. If we support the amendment that I moved, it will mean that those assurances will last for 50 years. That will continue to ensure that the capital of the fund remains and grows by one per cent of royalties every year well into the future. I would have thought that would go to the very heart of the government's intent, given what it has been saying. It goes to the very heart of the assurances the minister has been trying to give us, through the passage of this bill, on the ongoing entrenchment of those clauses and that the bill is not setting up a situation in which the government of the day in 20 years can, with a simple majority of this house, raid the fund, spend it and leave nothing for future generations. The reality is that there may be members of this Parliament today who will still be members of this chamber in 20 years.

Hon Kate Doust: Hon Nick Goiran is one!

Hon KEN TRAVERS: Hon Nick Goiran.

Hon Nick Goiran: Twenty!

Hon KEN TRAVERS: Twenty! Is Hon Nick Goiran going after the Leader of the House's record?

Hon Nick Goiran: Definitely!

Hon KEN TRAVERS: Hon Simon O'Brien was my first choice as one of those. If he were to continue to seek to have a career as lengthy as his leader, he would certainly close in on being here in 2032.

Hon Nick Goiran: It won't be Hon Mia Davies, because she doesn't like being here!

Hon KEN TRAVERS: No. I think half the National Party members want to cut and run from this chamber. I do not know why but they do, and that is their choice.

Hon Simon O'Brien: A few Labor members have been sacked as well!

Hon Nick Goiran interjected.

Hon KEN TRAVERS: I am sorry?

Hon Nick Goiran: It might be because of you!

Hon KEN TRAVERS: That is true. If they cannot handle the heat in the kitchen, get out of it. That is fair enough, Hon Nick Goiran. It could also be because of you, Hon Nick Goiran. I have been here for a while and I have never seen an exodus like there has been in the past four years. So it is something that has happened in the past four years, Hon Nick Goiran, that has caused that desire for National Party members to exit; with the one exception, of course, and that is the refugee in the National Party from the other place. But I have digressed and been taken off the matter.

The CHAIR: Just a little, member.

Hon KEN TRAVERS: The simple fact of the matter is that 20 years is not a particularly long time when we actually think about it. The minister himself, I think, is running again for the following Parliament at the conclusion of this term. If this bill had been passed in the early days of his parliamentary career, those 20 years would be up during his next term in Parliament. So if we are serious about that intergenerational transfer and if we are serious about ensuring that those provisions are entrenched well beyond the life of members of Parliament so that there will be a real parliamentary intergenerational transfer of wealth, then there is a need for

the entrenching provisions to last longer. As I say, I suspect that it may all end up being a waste of time because, as Hon Linda Savage put in her very sound argument and as a number of other people did, these entrenching provisions will not hold up. But if they do and if the government is right, then let us make sure they are entrenched for a long period well beyond 20 years.

Hon SIMON O'BRIEN: The opposition has raised a proposition and I have to advise members that the government does not support this amendment to clause 10, basically for the same reasons that I outlined when we contemplated the proposed 20 years versus 50 years amendment to the last clause.

Hon Ken Travers: It is a completely different argument, minister.

Hon SIMON O'BRIEN: It is interesting to note that opposition members seem to want to have it both ways. On one hand, they are opposed to this bill because they say —

Hon Ken Travers: Tell me when we have opposed this bill.

Hon SIMON O'BRIEN: I can show the member a few speeches.

Hon Kate Doust: No. No-one said that they were opposed to the bill.

Hon SIMON O'BRIEN: Opposition members have been saying that they do not want this fund set up now and that they want to use the money for something else, whether it be investing in other infrastructure now or paying off something else—whatever it might be. Now we find them moving amendments to say that they want it to go on much, much longer in certain key areas. I find that slightly contradictory. But that is all right; there is no law against that.

Hon Ken Travers: There's nothing contradictory about it, minister.

Hon SIMON O'BRIEN: I am not challenging for a moment that the honourable member moving the amendment can rationalise and reconcile those two apparently conflicting positions in his own mind, and even put forward explanations. Good luck to him if he wants to do that. The fact of the matter is that this government has a clear proposal that it has put forward in this bill, and we intend to pursue it without attempts to make it jump the rails.

I think the best thing I can do with some of the comments made by Hon Ken Travers in his earlier remarks is just let them go through to the keeper. I will therefore just say this gently: I have sought, in standing twice, to answer his colleagues' questions, which were not precise, and I have not sought to jump to anyone else's tune. I do not follow instructions from a ministerial colleague when I represent them here. I may seek advice but I assure the member that I am endeavouring to meet the needs of this chamber, as I would endeavour in managing any bill with which I am charged.

Let us get back to the question before the Chair, and that is basically about the proposal to change the date from 2032 to 2062. The government has been striving and continues to strive to get a reasonable balance in this matter. The member can argue different periods of time if he wants to. We have one before us now. Our intent is to ensure that the balance of the fund can accumulate for 20 years. That is what we are setting out to do. That will give it a critical mass, as we see it, and that is why we are trying to entrench that provision. That is directly related to the question we have previously considered. The manner and form provision of clause 10, of course, applies during the extent of this 20-year period to ensure that the balance of the fund can build up over this time. That is the undertaking we have given, via our public statements and via the introduction and furthering of the Western Australian Future Fund Bill 2012, to not only this generation of Western Australians, but also the next. That is what we intend to pursue and we are consistent in that; that is why we will not be supporting this amendment.

Hon KEN TRAVERS: I thought the Greens (WA) might have put their position; I was waiting for them to jump up, but clearly that was not the case.

I just want to make a couple of points very clear in response to what the minister said. I do not think we will find a single member of the Labor Party who has expressed opposition to the principle of this bill. What we have said, though, is that it is a meaningless exercise to pass this bill and put money into the fund while state debt continues to climb as a result of uncontrolled expenditure on city-centric projects such as Elizabeth Quay that leave a debt for future generations, while at the same time pretending they will be left with some intergenerational cash transfer. We have said that we agree with the idea of intergenerational cash transfer, but while those other things are being done, the government is just trying to hoodwink people about that intergenerational transfer.

As to this amendment, the government is saying that in 20 years' time it will be okay for people to raid and plunder this fund with a simple majority of the house. That is what the government is saying—not only that it can start to spend the money accumulated in the fund, but also that it can come into this place and raid it with a

simple majority. What we are saying is that if the government is serious and believes as a government that these manner and form provisions will provide a protection for at least 20 years, let us make that protection last for 50 years to protect the asset of the fund. The government can start spending it after 20 years, but let us make sure that we keep the money accumulating and keep the money in the fund for at least 50 years and that the one per cent continues to be contributed. In the answer to my earlier question, great store was set by the minister in the fact that one per cent of royalties will continue to go into this fund beyond the 20-year period. That will not be guaranteed unless we support the amendment I have moved this afternoon. Those are the crux questions in this.

So that is where the Labor Party sits. Anyone who suggests that we oppose this legislation is just being downright mischievous or, as my mother would say, a sanguine perverter of veracity—I think that is the term she would use!

Hon Simon O'Brien: What was the first adjective?

Hon KEN TRAVERS: Sanguine! A perverter of veracity—that is what my mother would say about that!

Hon Kate Doust interjected.

Hon KEN TRAVERS: I do not know; if members look up what it actually means, they might find that it is even better!

Hon Simon O'Brien: Again—no; I won't say it!

Hon Sue Ellery: I think we all know what it means.

Hon KEN TRAVERS: I am being distracted again, Mr Chair!

The CHAIR: You are.

Hon KEN TRAVERS: So that is the crux of the question. We can support the legislation, but until the government gets those other things in order, which is what we were seeking to do with our amendments yesterday, it is actually just trying to mislead the people of Western Australia. If the government was serious about preserving this fund into the future, it would support this amendment.

Hon LYNN MacLAREN: The Greens (WA) do not agree with the argument put forward by Hon Ken Travers. We believe the manner and form provisions are adequate to ensure that the find is not touched earlier than intended. The minister has addressed the question several times, and I am satisfied with the answer given. We will be opposing the amendment.

Amendment put and a division taken, the Chair (Hon Matt Benson-Lidholm) casting his vote with the ayes, with the following result —

Ayes (8)

Hon Matt Benson-Lidholm	Hon Adele Farina	Hon Linda Savage	Hon Ken Travers
Hon Kate Doust	Hon Ljiljanna Ravlich	Hon Sally Talbot	Hon Ed Dermer *(Teller)*

Noes (21)

Hon Liz Behjat	Hon Phil Edman	Hon Lynn MacLaren	Hon Giz Watson
Hon Robin Chapple	Hon Philip Gardiner	Hon Michael Mischin	Hon Alison Xamon
Hon Jim Chown	Hon Nick Goiran	Hon Norman Moore	Hon Ken Baston *(Teller)*
Hon Peter Collier	Hon Nigel Hallett	Hon Helen Morton	
Hon Mia Davies	Hon Alyssa Hayden	Hon Simon O'Brien	
Hon Wendy Duncan	Hon Col Holt	Hon Max Trenorden	

Pairs

Hon Jon Ford	Hon Robyn McSweeney
Hon Sue Ellery	Hon Brian Ellis
Hon Helen Bullock	Hon Donna Faragher

Amendment thus negatived.

Clause put and passed.

Hon SIMON O'BRIEN: This is probably the wrong time to ask, but it is the only time I have. Would it be necessary to record that this division was passed with an absolute majority, or is that not a requirement?

The CHAIR: I do not believe it is a requirement.

Hon SIMON O'BRIEN: I just point to the last question.

The CHAIR: The numbers stand as they do at 21 to eight.

Hon Ken Travers: It was not unanimous; there was a dissenting voice. So, there clearly has not been an absolute majority without a division being called. That would be the only test. No-one has called a division, so we don't know. It has passed, but we don't know how it was passed.

The CHAIR: Sorry, I initially misunderstood the nature of the question. Certainly, clause 10 was passed and that is it.

Clauses 11 and 12 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by **Hon Simon O'Brien (Minister for Finance)**, and passed.